

of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

(Pub. L. 102-484, div. A, title XVIII, §1831, Oct. 23, 1992, 106 Stat. 2585.)

#### § 5112. Annual report

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 1102 of this title. The report shall not be printed as a public document.

(Pub. L. 102-484, div. A, title XVIII, §1833, Oct. 23, 1992, 106 Stat. 2586.)

#### § 5113. Reservation of right to amend or repeal chapter

The right to alter, amend, or repeal this chapter is expressly reserved to the Congress.

(Pub. L. 102-484, div. A, title XVIII, §1834, Oct. 23, 1992, 106 Stat. 2586; Pub. L. 103-35, title II, §202(a)(13), May 31, 1993, 107 Stat. 101.)

#### AMENDMENTS

1993—Pub. L. 103-35 made technical amendment to reference to this chapter to reflect correction of corresponding provision of original act.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-35 applicable as if included in the enactment of Pub. L. 102-484, see section 202(b) of Pub. L. 103-35, set out as a note under section 155 of Title 10, Armed Forces.

#### § 5114. Tax-exempt status

The corporation shall maintain its status as an organization exempt from taxation as provided in title 26. If the corporation fails to maintain such status, the charter granted by this chapter shall expire.

(Pub. L. 102-484, div. A, title XVIII, §1835, Oct. 23, 1992, 106 Stat. 2586.)

#### § 5115. Exclusive right to names, seals, emblems, and badges

The corporation shall have the sole and exclusive right to use the names “The Retired Enlisted Association, Incorporated”, “The Retired Enlisted Association”, “Retired Enlisted Association”, and “TREA”, and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with rights that are established or vested before October 23, 1992.

(Pub. L. 102-484, div. A, title XVIII, §1836, Oct. 23, 1992, 106 Stat. 2586.)

#### § 5116. Failure to comply with restrictions or provisions

If the corporation fails to comply with any of the restrictions or provisions of this chapter, the charter granted by this chapter shall expire.

(Pub. L. 102-484, div. A, title XVIII, §1837, Oct. 23, 1992, 106 Stat. 2586.)

#### § 5117. “State” defined

For purposes of this chapter, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(Pub. L. 102-484, div. A, title XVIII, §1838, Oct. 23, 1992, 106 Stat. 2586.)

### CHAPTER 84—NATIONAL FALLEN FIREFIGHTERS FOUNDATION

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|---------------|---|
| Sec.<br>5201. | Establishment and purposes of Foundation.<br>(a) Establishment.<br>(b) Purposes.  |
| 5202.         | Board of Directors.<br>(a) Establishment and membership.<br>(b) Appointment and terms.<br>(c) Vacancy.<br>(d) Chairman.<br>(e) Quorum.<br>(f) Meetings.<br>(g) General powers.<br>(h) Officers and employees. |
| 5203.         | Rights and obligations of Foundation.<br>(a) In general.<br>(b) Seal.<br>(c) Powers.  |
| 5204.         | Administrative services and support.  |
| 5205.         | Volunteer status.   |
| 5206.         | Audits, report requirements, and petition of Attorney General for equitable relief.<br>(a) Audits.<br>(b) Report.<br>(c) Relief for certain Foundation acts or failures to act.                               |
| 5207.         | Immunity of United States.  |

#### § 5201. Establishment and purposes of Foundation

##### (a) Establishment

There is established the National Fallen Firefighters Foundation (hereafter in this chapter referred to as the “Foundation”). The Foundation is a charitable and nonprofit corporation to be organized under the laws of the State of Maryland and is not an agency or establishment of the United States.

##### (b) Purposes

The purposes of the Foundation are—

(1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters’ Memorial and the annual memorial service associated with it;

(2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;

(3) to assist State and local efforts to recognize firefighters who die in the line of duty; and

(4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

(Pub. L. 102-522, title II, § 202, Oct. 26, 1992, 106 Stat. 3417.)

#### SHORT TITLE

Section 201 of title II of Pub. L. 102-522 provided that: "This title [enacting this chapter and section 671a of Title 29, Labor] may be cited as the 'National Fallen Firefighters Foundation Act'."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5203, 5206 of this title.

### § 5202. Board of Directors

#### (a) Establishment and membership

##### (1) Voting members

The Foundation shall have a governing Board of Directors (hereafter in this chapter referred to as the "Board"), which shall consist of nine voting members, of whom—

- (A) one member shall be an active volunteer firefighter;
- (B) one member shall be an active career firefighter;
- (C) one member shall be a Federal firefighter; and
- (D) six members shall have a demonstrated interest in the fire service.

##### (2) Nonvoting member

The Administrator of the United States Fire Administration of the Federal Emergency Management Agency (hereafter in this chapter referred to as the "Administrator") shall be an ex officio nonvoting member of the Board.

##### (3) Status of Board members

Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

##### (4) Compensation

Members of the Board shall serve without compensation.

#### (b) Appointment and terms

Within 3 months after October 26, 1992, the Administrator shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years, except that the Administrator, in making the initial appointments to the Board, shall appoint—

- (1) three members to a term of 2 years;
- (2) three members to a term of 4 years; and
- (3) three members to a term of 6 years.

#### (c) Vacancy

A vacancy on the Board shall be filled within 60 days in the manner in which the original appointment was made.

#### (d) Chairman

The Chairman shall be elected by the Board from its voting members for a 2-year term.

#### (e) Quorum

A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

#### (f) Meetings

The Board shall meet at the call of the Chairman at least once a year. If a member of the Board misses three consecutive meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (c) of this section.

#### (g) General powers

##### (1) Actions by the Board

The Board may complete the organization of the Foundation by—

- (A) appointing no more than two officers or employees;
- (B) adopting a constitution and bylaws consistent with this chapter; and
- (C) undertaking other such acts as may be necessary to carry out this chapter.

##### (2) Limitation

Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services.

#### (h) Officers and employees

##### (1) Status

Officers and employees of the Foundation shall not be considered Federal employees, shall be appointed without regard to title 5 governing appointments in the competitive service, and may be paid without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

##### (2) Maximum salary

No officer or employee may receive pay in excess of the annual rate of basic pay prescribed for level GS-15 of the General Schedule under section 5107 of title 5.

(Pub. L. 102-522, title II, § 203, Oct. 26, 1992, 106 Stat. 3417.)

#### REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

### § 5203. Rights and obligations of Foundation

#### (a) In general

The Foundation—

- (1) shall have perpetual succession;
- (2) may conduct business throughout the several States, territories, and possessions of the United States;
- (3) shall have its principal offices in the State of Maryland; and
- (4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

#### (b) Seal

The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

#### (c) Powers

To carry out its purposes under section 5201 of this title, the Foundation shall have, in addition to the powers otherwise given it under this

chapter, the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income therefrom;

(4) to enter into contracts and other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(5) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(Pub. L. 102-522, title II, §204, Oct. 26, 1992, 106 Stat. 3419.)

#### § 5204. Administrative services and support

The Administrator may provide personnel, facilities, and other administrative services to the Foundation and shall require and accept reimbursements for such personnel, facilities, and services that shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services. Notwithstanding any other provision of law, Federal personnel and stationery shall not be used to solicit funding for the Foundation.

(Pub. L. 102-522, title II, §205, Oct. 26, 1992, 106 Stat. 3419.)

#### § 5205. Volunteer status

The Administrator may accept, without regard to the Federal civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the United States Fire Administration, as volunteers in the performance of the functions authorized under this chapter.

(Pub. L. 102-522, title II, §206, Oct. 26, 1992, 106 Stat. 3419.)

#### REFERENCES IN TEXT

The Federal civil service classification laws, referred to in text, probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

#### § 5206. Audits, report requirements, and petition of Attorney General for equitable relief

##### (a) Audits

For purposes of the Act entitled “An Act to provide for audit of accounts of private corporations established under Federal law”, approved

August 30, 1964 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation established under Federal law.

##### (b) Report

The Foundation shall, within 4 months after the end of each fiscal year, prepare and submit to the appropriate committees of the Congress a report of the Foundation’s proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

##### (c) Relief for certain Foundation acts or failures to act

If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with the purposes set forth in section 5201(b) of this title; or

(2) refuses, fails, or neglects to discharge its obligations under this chapter, or threatens to do so,

the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

(Pub. L. 102-522, title II, §207, Oct. 26, 1992, 106 Stat. 3420.)

#### REFERENCES IN TEXT

The Act entitled “An Act to provide for audit of accounts of private corporations established under Federal law”, referred to in subsec. (a), is Pub. L. 88-504, Aug. 30, 1964, 78 Stat. 635, as amended, which is classified principally to chapter 42 (§1101 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

#### § 5207. Immunity of United States

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(Pub. L. 102-522, title II, §208, Oct. 26, 1992, 106 Stat. 3420.)

### CHAPTER 85—NATIONAL EDUCATION ASSOCIATION OF THE UNITED STATES

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#### § 5301. Corporation created

The following-named persons, who are now the officers and directors and trustees of the Na-